

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court SDTX-Houston on the following ☒ Patents or ☐ Trademarks:

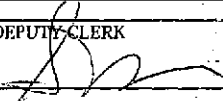
DOCKET NO. 4:08-cv-02887	DATE FILED 9/29/2008	U.S. DISTRICT COURT SDTX-Houston
PLAINTIFF Vettec, Inc		DEFENDANT Special Performance Exact Comfort Shoes, LLC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,009,952		see attached complaint
2 6,412,566		
3 6,505,686		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Michael N. Milby	(BY) DEPUTY CLERK 	DATE SEP 30 2008
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

r. That Plaintiff recover its prejudgment and postjudgment interest.

s. That a finding be made that the harm suffered by Plaintiff resulted from Defendant's fraud, malice and/or gross negligence and that Plaintiff be awarded exemplary damages for Defendant's misappropriation and/or tortious interference with prospective business relations.

t. That Plaintiff be granted preliminary and permanent injunctive relief.

u. That Plaintiff have such other and further relief as the Court deems just and proper.

JURY DEMAND

Under Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury.

Respectfully submitted,

/s/ Sharon A. Israel

Sharon A. Israel

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ATTORNEYS FOR PLAINTIFF VETTEC, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VETTEC, INC., a California corporation)	
)	
<i>Plaintiff,</i>)	
)	
v.)	CIVIL ACTION NO. 08-CV-2887
)	
)	
SPECIAL PERFORMANCE EXACT)	
COMFORT SHOES, LLC, a Texas)	
limited liability company)	
)	
<i>Defendant.</i>)	

COMPLAINT

Plaintiff Vettec, Inc., for its Complaint against Defendant Special Performance Exact Comfort Shoes, LLC, states and alleges as follows:

THE PARTIES

1. Plaintiff is a California corporation having a place of business at 600 East Hueneme Road, Oxnard, CA 93033.
2. On information and belief, Defendant is a Texas limited liability company having a principal place of business in Texas at 25630 Hufsmith Cemetery Road, Tomball, TX 77375.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code, trade dress infringement and/or false advertising arising under § 43(a) of the Lanham Act, misappropriation arising under Texas Law, and tortious

interference with prospective business relations arising under Texas Law. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331, 1338 and 1367.

4. Defendant has been and is continuing to transact business in this judicial district, and has been and is continuing to commit acts of infringement in this judicial district. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

FACTUAL BACKGROUND

5. On January 4, 2000, United States Patent No. 6,009,952 (the “‘952 patent”), entitled “Method of Protecting a Horse’s Hoof and Product,” was duly and legally issued to Don D. Porteous and Frank Rovelli. The ‘952 patent was assigned to Plaintiff. Plaintiff continues to hold all rights and interest in the ‘952 patent. A copy of the ‘952 patent is attached to this Complaint as Exhibit A.

6. On July 2, 2002, United States Patent No. 6,412,566 (the “‘566 patent”), entitled “Horse Hoof Protection,” was duly and legally issued to Frank Rovelli, Don D. Porteous, and Richard L. Jacobs. The ‘566 patent was assigned to Plaintiff. Plaintiff continues to hold all rights and interest in the ‘566 patent. A copy of the ‘566 patent is attached to this Complaint as Exhibit B.

7. On January 14, 2003, United States Patent No. 6,505,686 (the “‘686 patent”), entitled “In Situ Horseshoeing,” was duly and legally issued to Frank Rovelli. The ‘686 patent was assigned to Plaintiff. Plaintiff continues to hold all rights and interest in the ‘686 patent. A copy of the ‘686 patent is attached to this Complaint as Exhibit C.

COUNT I – INFRINGEMENT OF THE ‘952, ‘566 AND ‘686 PATENTS

8. Plaintiff alleges and incorporates by reference Paragraphs 1–7 of this Complaint, as if fully set forth herein.

9. On information and belief, Defendant has infringed one or more claims of the '952, '566 and/or '686 patents under one or more sections of 35 U.S.C. § 271.

10. On information and belief, Defendant has sold or offered to sell within the United States one or more components of the patented invention in one or more of the claims of the '952, '566 and/or '686 patents, and/or a material and/or apparatus for use in practicing the patented process in one or more of the claims of the '952, '566 and/or '686 patents.

11. On information and belief, Defendant has actively induced third parties to, without authority, make, use, offer to sell and/or sell products and/or processes covered by one or more of the claims of the '952, '566 and '686 patents.

12. Defendant continues to engage in infringing activities.

13. The infringing activities of Defendant are willful.

14. Plaintiff has sustained damages and will continue to sustain damages as a result of Defendant's willful infringement. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's infringing activities.

15. Plaintiff does not have an adequate remedy at law.

16. Defendant will continue to willfully infringe unless enjoined by this Court.

COUNT II – VIOLATION OF § 43(a) OF THE LANHAM ACT

17. Plaintiff alleges and incorporates by reference Paragraphs 1–16 of this Complaint, as if fully set forth herein.

18. Plaintiff uses words, terms, names, symbols, colors or devices, alone or in combination, which are non-functional and distinctive, in connection with the containers for its

products—Equi-Pak and Super Fast—sold in the equine hoof care industry. These identifying characteristics constitute trade dress.

19. Defendant has used Plaintiff's trade dress in connection with its containers in commerce in the equine hoof care industry, and that use is likely to cause confusion or mistake.

20. Defendant has been and still is committing acts of infringement, under § 43(a) of the Lanham Act, by using plaintiff's trade dress in connection with containers for its goods used in commerce in the equine hoof care industry, which is likely to cause confusion or mistake.

21. On information and belief, Defendant has been and is still committing acts of false advertising under § 43(a) of the Lanham Act by using, in commerce, false and/or misleading descriptions and/or statements of fact on or in connection with its goods and/or services and/or containers for goods, which in commercial advertising and/or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of Defendant's and/or Plaintiff's goods, services and/or commercial activities.

22. On information and belief, the wrongful activities of the Defendant are willful.

23. Plaintiff has sustained damages and will continue to sustain damages as a result of Defendant's willful wrongful activities.

24. On information and belief, Defendant has profited from its wrongful activities.

25. Plaintiff has given Defendant actual notice of its infringement, but Defendant continues its infringement willfully and with full knowledge of Plaintiff's rights.

26. Plaintiff does not have an adequate remedy at law.

27. Defendant will continue to willfully infringe unless enjoined by this Court.

COUNT III – MISAPPROPRIATION

28. Plaintiff alleges and incorporates by reference Paragraphs 1–27 of this Complaint, as if fully set forth herein.

29. Plaintiff has created its products and processes though extensive time, labor, skill and money.

30. Defendant has used Plaintiff's products and processes in competition with Plaintiff, thereby gaining a special advantage in that competition because Defendant was burdened with little or none of the expense incurred by Plaintiff.

31. Defendant's use of Plaintiff's products and processes has caused commercial damage to Plaintiff.

32. Plaintiff has sustained damages and will continue to sustain damages as a result of Defendant's interference. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful conduct.

33. On information and belief, the harm suffered by Plaintiff results from Defendant's fraud, malice and/or gross negligence. As a result, Plaintiff is entitled to recover exemplary damages.

34. Plaintiff does not have an adequate remedy at law.

35. Defendant will continue to misappropriate unless enjoined by this Court.

**COUNT IV –
TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS RELATIONS**

36. Plaintiff alleges and incorporates by reference Paragraphs 1–35 of this Complaint, as if fully set forth herein.

37. There has been a reasonable probability of Plaintiff entering into business relationships with various third parties.

38. Defendant has committed independently tortious and/or unlawful acts that have prevented the business relationships from occurring.

39. Defendant has committed such acts with a conscious desire to prevent the business relationships from occurring and/or Defendant has known that interference was certain or substantially certain to occur.

40. Plaintiff has sustained damages and will continue to sustain damages as a result of Defendant's interference. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's interference.

41. On information and belief, the harm suffered by Plaintiff results from Defendant's fraud, malice and/or gross negligence. As a result, Plaintiff is entitled to recover exemplary damages.

42. Plaintiff does not have an adequate remedy at law.

43. Defendant will continue to interfere unless enjoined by this Court.

RELIEF SOUGHT

WHEREFORE, Plaintiff asks this Court to enter judgment in its favor against Defendant by granting the following relief:

a. That this Court enter judgment that Defendant has infringed United States Patents Nos. 6,009,952; 6,412,566; and 6,505,686.

b. That this Court enter judgment that such patent infringement was willful.

c. That Defendant, its agents, servants, employees, and other persons in active concert or participation with the Defendant, be permanently enjoined from directly or indirectly making or causing to be made, manufacturing, selling or causing to be sold, using, or in any way distributing any apparatus or device which embodies the claimed invention either set forth in the '952, '566, and '686 patents, or which is designed, intended, or adapted for use in any way, directly or indirectly infringing upon or violating Plaintiff's rights in the '952, '566, and '686 patents; and from contributing to, aiding or inducing such infringement by others.

d. That Plaintiff recover damages from Defendant resulting from its patent infringement, and that Defendant account to Plaintiff by reason of such infringement.

e. That this court enter a judgment that Defendant has infringed Plaintiff's trade dress and/or committed acts of false advertising under § 43(a) of the Lanham Act.

f. That this trade dress infringement and/or false advertising was willful.

g. That Defendant, its agents, servants, employees, and other persons in active concert or participation with the Defendant, be permanently enjoined from directly or indirectly using in commerce, or causing to be used in commerce, any word, term, name, symbol, color or device that is likely to cause confusion with regard to Plaintiff's trade dress.

h. That Defendant, its agents, servants, employees, and other persons in active concert or participation with the Defendant, be permanently enjoined from falsely advertising its or Plaintiff's goods, services or commercial activities.

i. That Plaintiff recover from Defendant the damages that Plaintiff has incurred as a result of Defendant's infringement of Plaintiff's trade dress and/or false advertising pursuant to § 35 of the Lanham Act.

j. That Plaintiff recover from Defendant the profits resulting from Defendant's trade dress infringement and/or false advertising pursuant to § 35 of the Lanham Act.

k. That this Court enter a judgment that Defendant has misappropriated Plaintiff's products and/or processes.

l. That Defendant, its agents, servants, employees, and other persons in active concert or participation with the Defendant, be permanently enjoined from using Plaintiff's products and/or processes in competition with Plaintiff.

m. That this Court enter a judgment that Defendant tortiously interfered with Plaintiff's prospective business relations.

n. That Defendant, its agents, servants, employees, and other persons in active concert or participation with the Defendant, be permanently enjoined from interfering with Plaintiff's prospective business relations.

o. That Plaintiff recover from Defendant the damages, including lost profits and loss of goodwill, that Plaintiff has incurred as a result of Defendant's misappropriation and/or tortious interference with prospective business relations.

p. That a finding be made that this is an exceptional case and that Plaintiff be awarded its costs, including reasonable attorneys' fees.

q. That Plaintiff recover enhanced damages.